

**UNITED STATES DISTRICT COURT**

**EASTERN DISTRICT OF CALIFORNIA**

STEVE STEWARD,

Plaintiff,

v.

LIBERTY LIFE ASSURANCE  
COMPANY OF BOSTON,

Defendant.

**Case No. 1:20-cv-00325-AWI-SAB**

**SCHEDULING ORDER (Fed. R. Civ. P 16)**

**Initial Disclosure Deadline:**  
**June 30, 2020**

**Administrative Record Filing Deadline:**  
**January 4, 2021**

**Non-Dispositive Motion Deadlines:**  
**Filing: November 4, 2020**  
**Hearing: Pursuant to Local Rules**

**Dispositive Motion Deadlines:**  
**Opening Brief: January 25, 2021**  
**Responsive Brief: February 15, 2021**  
**Hearing: February 22, 2021, at 1:30 p.m. in**  
**Courtroom 2**

**Bench Trial: April 20, 2021, at 8:30 a.m. in**  
**Courtroom 2 (1 day)**

**I. Date of Scheduling Conference**

The Scheduling Conference was held on June 9, 2020.

**II. Appearances of Counsel**

Brent Brehm appeared telephonically on behalf of Plaintiff Steve Steward.

Jenny Wang appeared telephonically on behalf of Defendant Liberty Life Assurance  
Company of Boston.

### 1           **III.     Consent to Magistrate Judge**

2           Pursuant to 28 U.S.C. § 636(c), to the parties who have not consented to conduct all  
 3 further proceedings in this case, including trial,<sup>1</sup> before United States Magistrate Judge Stanley A.  
 4 Boone, you should be informed that because of the pressing workload of United States district  
 5 judges and the priority of criminal cases under the United States Constitution, you are encouraged  
 6 to consent to magistrate judge jurisdiction in an effort to have your case adjudicated in a timely  
 7 and cost effective manner. Presently, when a civil trial is set before Judge Ishii, any criminal trial  
 8 set which conflicts with the civil trial will take priority, even if the civil trial was set first.  
 9 Continuances of civil trials under these circumstances may no longer be entertained, absent a  
 10 specific and stated finding of good cause, but the civil trial may instead trail from day to day or  
 11 week to week until the completion of either the criminal case or the older civil case. The parties  
 12 are advised that they are free to withhold consent or decline magistrate jurisdiction without  
 13 adverse substantive consequences.

### 14           **IV.     Initial Disclosure under Fed. R. Civ. P. 26(a)(1)**

15           The Parties are ordered to exchange the initial disclosures required by Fed. R. Civ. P.  
 16 26(a)(1) on or before **June 30, 2020**.

### 17           **V.     Amendments to Pleading**

18           Any motions or stipulations requesting leave to amend the pleadings must be filed no later  
 19 than **June 16, 2020**. The parties are advised that filing motions and/or stipulations requesting  
 20 leave to amend the pleadings does not reflect on the propriety of the amendment or imply good  
 21 cause to modify the existing schedule, if necessary. All proposed amendments must (A) be  
 22 supported by good cause pursuant to Fed. R. Civ. P. 16(b) if the amendment requires any  
 23 modification to the existing schedule, *see Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604,  
 24 609 (9th Cir. 1992), and (B) establish, under Fed.R.Civ.P. 15(a), that such an amendment is not  
 25 (1) prejudicial to the opposing party, (2) the product of undue delay, (3) proposed in bad faith, or  
 26 (4) futile, *see Foman v. Davis*, 371 U.S. 178, 182 (1962).

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27           <sup>1</sup> Except those proceedings delegated to the United States magistrate judges by 28 U.S.C. § 636(b) and the district  
 28 judges by the Local Rules for the Eastern District of California.

1           **VI.     Pre-Trial Motion Schedule**

2           Unless prior leave of Court is obtained at least seven (7) days before the filing date, all  
3 moving and opposition briefs or legal memorandum in civil cases shall not exceed twenty-five  
4 (25) pages. Reply briefs filed by moving parties shall not exceed ten (10) pages. Before  
5 scheduling any motion, the parties must comply with all requirements set forth in Local Rule 230  
6 and 251.

7           **A.     Non-Dispositive Pre-Trial Motions**

8           All non-dispositive pre-trial motions shall be filed no later than **November 4, 2020**, and  
9 heard pursuant to the Local Rules in Courtroom 9. Non-dispositive motions are heard on  
10 Wednesdays at 10:00 a.m., before United States Magistrate Judge Stanley A. Boone in Courtroom  
11 9.

12           In scheduling any non-dispositive motion, the Magistrate Judge may grant Applications  
13 for an Order Shortening Time pursuant to Local Rule 144(e). However, if counsel does not  
14 obtain an Order Shortening Time, the Notice of Motion must comply with Local Rule 251.

15           Counsel may appear and argue non-dispositive motions by telephone, providing a written  
16 request to so appear is made to the Magistrate Judge's Courtroom Clerk no later than three (3)  
17 court days before the noticed hearing date. In the event that more than one attorney requests to  
18 appear by telephone, then it shall be the obligation of the moving party(ies) to arrange and  
19 originate a conference call to the court.

20           **B.     Dispositive Pre-Trial Motions**

21           The Administrative Record shall be filed no later than **January 4, 2021**. Motions for  
22 Summary Judgment shall be filed no later than **January 25, 2021**. Responsive briefs shall be  
23 filed no later than **February 15, 2021**. The motion for summary judgment shall be heard on  
24 **February 22, 2021, at 1:30 p.m. in Courtroom 2** before Senior Judge Anthony W. Ishii.<sup>2</sup>

25  
26 <sup>2</sup> The parties requested that a bench trial be set on March 22, 2021, and at the scheduling  
27 conference the Court set the bench trial for March 23, 2021. However, upon conferring with Judge  
28 Ishii's chambers, the bench trial needs to be set two months after the hearing on the motions for  
summary judgment. Accordingly, the Court sets a hearing on the motions for summary judgment  
pursuant to the Local Rules and the bench trial is set two months after the hearing.

1 Prior to filing a motion for summary judgment or motion for summary adjudication, the  
2 parties are ORDERED to meet, in person or by telephone, and confer to discuss the issues to be  
3 raised in the motion.

4 The purpose of the meeting shall be to: 1) avoid filing motions for summary judgment  
5 where a question of fact exists; 2) determine whether the respondent agrees that the motion has  
6 merit in whole or in part; 3) discuss whether issues can be resolved without the necessity of  
7 briefing; 4) narrow the issues for review by the court; and 5) explore the possibility of settlement  
8 before the parties incur the expense of briefing a summary judgment motion.

9 The moving party shall initiate the meeting. **In addition to the requirements of Local**  
10 **Rule 260, the moving party shall file a Joint Statement of Undisputed Facts.**

11 In the Notice of Motion, the moving party shall certify that the parties have met and  
12 conferred as ordered above or set forth a statement of good cause for the failure to meet and  
13 confer.

14 **VII. Trial Date**

15 Trial is set for **April 20, 2021, at 8:30 a.m.** in Courtroom 2 before Senior United States  
16 District Judge Anthony W. Ishii.

17 A. This is a bench trial.

18 B. Counsels' Estimate of Trial Time: 1 Day.

19 C. Counsels' attention is directed to Local Rule 285 for the Eastern District of  
20 California.

21 **VIII. Related Matters Pending**

22 There are no pending related matters.

23 **IX. Compliance with Federal Procedure**

24 All counsel are expected to familiarize themselves with the Federal Rules of Civil  
25 Procedure and the Local Rules of the Eastern District of California, and to keep abreast of any  
26 amendments thereto. The Court must insist upon compliance with these Rules if it is to  
27 efficiently handle its increasing case load and sanctions will be imposed for failure to follow the  
28 Rules as provided in both the Federal Rules of Civil Procedure and the Local Rules for the

1 Eastern District of California.

2 Additional requirements and more detailed procedures for courtroom practice before  
3 United States Magistrate Judge Stanley A. Boone can be found at the United States District Court  
4 for the Eastern District of California's website (<http://www.caed.uscourts.gov>) under Judges;  
5 United States Magistrate Judge Stanley A. Boone (SAB). In the area entitled "Case Management  
6 Procedures," there is a link to "Standard Information." All parties and counsel shall comply with  
7 the guidelines set forth therein.

8 **X. Effect of this Order**

9 The foregoing order represents the best estimate of the court and counsel as to the agenda  
10 most suitable to dispose of this case. The trial date reserved is specifically reserved for this case.  
11 If the parties determine at any time that the schedule outlined in this order cannot be met, counsel  
12 are ordered to notify the court immediately of that fact so that adjustments may be made, either  
13 by stipulation or by subsequent status conference.

14 **Stipulations extending the deadlines contained herein will not be considered unless**  
15 **they are accompanied by affidavits or declarations, and where appropriate attached**  
16 **exhibits, which establish good cause for granting the relief requested. The parties are**  
17 **advised that due to the impacted nature of civil cases on the district judges in the Eastern**  
18 **District of California, Fresno Division, that stipulations to continue set dates are disfavored**  
19 **and will not be granted absent good cause.**

20 **Lastly, should counsel or a party appearing pro se fail to comply with the directions**  
21 **as set forth above, an ex parte hearing may be held and contempt sanctions, including**  
22 **monetary sanctions, dismissal, default, or other appropriate judgment, may be imposed**  
23 **and/or ordered.**

24  
25 IT IS SO ORDERED.

26 Dated: **June 10, 2020**

  
UNITED STATES MAGISTRATE JUDGE